IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE EIGHTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE C.V.RAMULU

WRIT PETITION NO : 17659 of 2000

Between:

C.Ravindranath, CISF No.855000051,

S/o.C.Venkata Subbaiah,

Hindu, aged about 35 years,

R/o.B.D.L. Township,

Bahanur, Medak District

..... PETITIONER

AND

1 The Director General,

Central Industrial Security Force,

13, C.G.O. Complex, Lodhi Road,

New Delhi-3.

2 Deputy Inspector General (Fire),

Central Industrial Security Force,

13, C.G.O. Complex, Lodhi Road,

New Delhi-3.

3 Assistant Inspector General (Estt.I)

Central Industrial Security Force, Ministry of Home Affairs,

13, C.G.O. Complex, Lodhi Road,

New Delhi-3.

4 P.T.Thomas, S/o.Not known,

CISF No.724280018,

Through: Director General,

Central Industrial Security Force,

13, C.G.O. Complex, Lodhi Road,

New Delhi-3.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue writ, order or direction more particularly one in the nature of writ of mandamus declaring the action of the 3rd respondent in promoting the 4th respondent to the post S.I./Fire vide proceedings No.E-31014/11/99/Estt.II/5201 (Service Order Part-I No.193/99), dt.3.11.99 even though, the petitioner is senior and suitable to the post, as illegal, arbitrary and violative of Article 14 and 16 of the Constitution of India and consequently direct the respondents to promote the petitioner to the post of SI/Fire/Mech. With retrospective dt.3.11.1999 by reverting the 4th respondent with all consequential benefits including back wages, seniority etc. forthwith and pass such other order or orders.

Counsel for the Petitioner:MR.J.M.NAIDU

Counsel for the Respondents: S.S.Varma, Addl. SC for Central Government

The Court made the following :

ORDER:

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This writ petition is filed seeking a *Writ of Mandamus* to declare the action of the 3rd respondent in promoting the

4th respondent to the post of Sub-Inspector/Fire vide proceedings No.E-31014/11/99/Estt.II/5201 dated 3.11.1999, as arbitrary and illegal and for a consequential direction to the respondents to promote the petitioner to the post of Sub-Inspector/Fire/Mechanical with retrospective effect from 03.11.1999 by reverting the

4th respondent with all consequential benefits including back wages, seniority etc.

It is the case of the petitioner that he was appointed as a Constable in the respondents' organization on 23.08.1985, and thereafter, pursuant to a notification issued by the Department, he applied for the post of Assistant Sub-Inspector/Fire/Fitter. He was selected and appointed, as such, with effect from 13.10.1993. Petitioner underwent training and his probation was declared in the said cadre. The 2nd respondent prepared seniority list of employees who are eligible for further promotion to the post of

Sub-Inspector/Fire, in which the petitioner's name was found at serial No.13; 4th respondent's name at serial No.41, and one Mr.Muthuswamy's name at serial No.54. While so, the

3rd respondent promoted the 4th respondent to the post of Sub-Inspector/Fire ignoring the seniority of the petitioner. In fact, the petitioner was already declared suitable for the post of Sub-Inspector/Fire by the departmental promotion committee in the year 1997 itself, though the 4th respondent failed at that point of time. Therefore, according to the petitioner, promoting the

4th respondent by proceedings dated 03.11.1999 is arbitrary and illegal.

A counter affidavit has been filed by the respondents denying the allegations made by the petitioner, and *inter alia* contending that there are two different categories in the rank of Assistant Sub-Inspector in the CISF fire wing; one is Assistant

Sub-Inspector (Fire/Lab) and the other is Assistant Sub-Inspector/Fire (Fitter/Motor Mechanic/Auto Electrician). Appointments to both these categories are made under the different set of recruitment rules and their seniority lists are also maintained separately and that their seniority has no correlation with each other. The promotion to the rank of Sub-Inspector (Fire/Lab) is made from the rank of Assistant Sub-Inspector (Fire/Lab), and promotion to the rank of Assistant Sub-Inspector/Fire (Fitter/Motor Mechanic, Auto Electrician) is made from the rank of Sub-Inspector (Mechanical/Fire). Petitioner stands at PSL No.13 in the seniority list of the Assistant Sub-Inspector/Fire (Fitter/ Motor Mechanic/ Auto Electrician), whereas the 4th respondent and one P.Muthuswamy, whose names have been cited by the petitioner, have figured at PSL Nos.41 and 54 respectively, in the separate seniority list maintained for Assistant Sub-Inspectors' (Fire/Lab). Since both the categories are different and their appointments are governed by different set of rules, the averments of the petitioner that he is senior to respondent No.4 and one P.Muthuswamy and that they have been promoted as Sub-Inspector (Fire/Lab) by overlooking his claim are totally baseless and denied.

Learned counsel for the petitioner contended that the petitioner was appointed anterior to the date of appointment of respondent No.4 to the post of Assistant Sub-Inspector (Fitter/Fire). Therefore, the denial of his promotion to the post of Sub-Inspector (Fire/Lab) by the respondents is arbitrary and illegal. Further, he contended that the Central Industrial Security Force Rules, 2001 (for short '2001 Rules') governs the field of Assistant Sub-Inspectors' and the said Rules does not differentiate the Assistant Sub-Inspectors' into two groups as contended by the learned counsel for the respondents.

Per contra, the learned counsel for the respondents contended that as asserted at para 7 of the counter, there are two categories of Assistant Sub-Inspector posts. Petitioner falls into the second category of Assistant Sub-Inspectors, whereas the 4th respondent falls into the first category of Assistant Sub-Inspectors; their seniority lists are maintained separately and their seniority has no co-relation with each other. It is further contended that in fact, the case of the petitioner is governed by 2001 Rules, and the same contemplates categorization of Assistant Sub-Inspector post

into two. In this regard, the learned counsel has placed before the Court the Gazette of India dated 12.01.1991, and drawn attention of this Court to page Nos.46 and 47, wherein the categorization of sub-Inspectors into two is mentioned, which reads as under:

1	2	3	4	5	6
Sub-Inspector(Fire/Lab)	250 (1990)Subject to variation depending on work load.	General Central Service Group'C' (Non Gazetted) non-Ministerial	Rs.1400-40-1800-E.B.-50-2300	Selection	Not less than 19 years and not more than 25 years. (Relaxable up to 5 years for members of Force) Note: The crucial date for determining the age limit shall be the closing date for receipt of applications from candidates in India (and not the closing date prescribed for those in Assam, Meghlaya, Arunachal Pradesh, Mizoram, Manipur, Nagaland, Tripura, Sikkim, Ladakh Division of Jammu and Kashmir State. Lahaul and Spiti district and Pangi Sub Division of Chamba district of Himachal Pradesh, Andaman and Nicobar Islands of Lakshadweep.

1	2	3	4	5	6
Sub-Inspector(Mechanical/Lab)	*6 (1990)Subject to variation depending on work load.	General Central Service Group'C' (Non Gazetted) non-Ministerial	Rs.1400-40-1800-E.B.-50-2300	Selection	Not less than 19 years and not more than 25 years. (Relaxable up to 5 years for members of Force) Note: The crucial date for determining the age limit shall be the closing date for receipt of applications from candidates in India (and not the closing date prescribed for those in Assam, Meghlaya, Arunachal Pradesh, Mizoram, Manipur, Nagaland, Tripura, Sikkim, Ladakh Division of Jammu and Kashmir State. Lahaul and Spiti district and Pangi Sub Division of Chamba district of Himachal Pradesh, Andaman and Nicobar Islands of Lakshadweep.

I have given earnest consideration to the respective submissions made by the learned counsel on either side and gone through the 2001 Rules. 2001 Rules

contemplate two categories of Assistant Sub-Inspectors; one is Assistant Sub-Inspector (Fire/Lab) and another is Assistant Sub-Inspector/Fire (Fitter/ Mechanical and Auto Electrician). As seen from the above said Rules, it is clear that the channel of promotion to the higher post of Sub-Inspector is different. Therefore, for the purpose of seniority, each category was treated separately and promotions were also made according to the seniority in each category. Admittedly, the petitioner was at Serial No.13 of the second category, whereas the 4th respondent falls into the first category. Each one of them is entitled to be promoted according to their seniority in their respective categories. Since the petitioner as well as the 4th respondent fall into different categories, they are governed by separate seniority lists and thus the promotion of the 4th respondent to the post of Sub-Inspector (Fire/Lab) by the 3rd respondent cannot be said to be either arbitrary or illegal.

The writ petition is devoid of merits and is liable to be dismissed. Accordingly, the writ petition is dismissed. No order as to costs.

08.11.2004

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To

1 The Director General,

Central Industrial Security Force,

13, C.G.O. Complex, Lodhi Road,

New Delhi-3.

2 Deputy Inspector General (Fire),

Central Industrial Security Force,

13, C.G.O. Complex, Lodhi Road,

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3 Assistant Inspector General (Estt.I)

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